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European Union

FAIRS Product Specific

Court Ruling on Chocolate Labeling

2003

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Report Highlights:

Spain and Italy are found by the European Court of Justice to have wrongly prohibited the marketing under the name 'chocolate' of products containing vegetable fats other than cocoa butter.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Brussels USEU [BE2], E2

In a European Court of Justice judgement of Jan 16, Spain and Italy were found to have wrongly prohibited the marketing under the name "chocolate" of products containing vegetable fats other than cocoa butter.

Chocolate manufactured in Denmark, Ireland, Portugal, Sweden, Finland and the United Kingdom complies with the minimum content for cocoa butter laid down in directive 73/241/EEC but contains vegetable fats other than cocoa butter up to a maximum of 5% of total weight. For that reason, Spain and Italy, in contrast to all the other Member States, prohibit the marketing of those products under the name 'chocolate', requiring them to be marketed as 'chocolate substitutes'.

The Court finds that, according to the 1973 directive, the characteristic element of all products bearing the name 'chocolate' is the presence of a certain minimum cocoa and cocoa butter content. The addition of vegetable fats does not substantially alter the nature of those products. Accordingly, appropriate labeling which notes the presence of vegetable fats other than cocoa butter would be sufficient to ensure that consumers are informed, and thus protected.

In those circumstances, the Court holds that the Spanish and Italian rules are disproportionate and infringe the principle of the free movement of goods.

Directive 2000/36, which will come not into force until June 2003, contains provisions which authorize the addition of vegetable fats other than cocoa butter up to a maximum of 5%.

The full text of the Court of Justice press release is available from

<http://www.curia.eu.int/en/actu/communiqués/index.htm>

CJE/03/3 Date: 16/01/2003 Spain and Italy are found to have wrongly prohibited the marketing under the name 'chocolate' of products containing vegetable fats other than cocoa butter

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